

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3734 of 1997

AND

SPECIAL CIVIL APPLICATION No.3735 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE H.L.GOKHALE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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In Special Civil Application No.3734 of 1997;-

SURENDRANAGAR NAGARPALIKA

Versus

AMIT A VASANI C/O DHIRUBHAI K VAIDYA

In Special Civil Application No. 3735 of 1997 :-

SURENDRANAGAR NAGARPALIKA

Versus

RASIKLAL N.THAKAR

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Appearance in both the petitions:

MR HJ NANAVATI for Petitioner

MR YV SHAH for Respondent No. 1

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CORAM : MR.JUSTICE H.L.GOKHALE

Date of decision: 09/10/97

COMMON ORAL JUDGEMENT

Rule had been issued in Special Civil Application No.3734 of 1997 on 27/6/1997 and in Special Civil Application No. 3735 of 1997 on 25/6/1997, making it returnable on 10th July, 1997. I have heard Mr. Vaishnav for Mr. H.J.Nanavati for the petitioners and Mr. Shah for the respondents. The respondent workmen were employed on temporary basis by the petitioner Nagarpalika. Thereafter their services came to be terminated. As against that, the respondents sought references and on references being made, the learned Judge of the Labour Court has come to the conclusion that amongst others, the employment of the respondents could not be said to be for a specified period under Sec. 2(oo)(bb) of the I.D.Act and while reemploying new persons, the respondent workmen were not informed. These observations are seen in Para 8 of the impugned awards. In that view of the matter, the learned Judge allowed the references and directed reinstatement, without backwages.

2. Mr. Vaishnav contended that in view of their Appointment Letters, they ought to be considered as covered under Sec. 2(oo)(bb) of the I.D.Act. He further stated that inasmuch as the termination of the respondents did not amount to retrenchment, the question of application of Sec.25H of the Act would not arise.

3. As against that Mr. Shah submitted that in the instant case, apart from looking into the documentary evidence on record, the learned Judge has come to the conclusion that the respondents cannot be said to be employed for a specified period. That was the finding of fact and it need not be disturbed. Mr. Shah relied upon the judgment of the Supreme Court in the case of Central Bank of India Vs.S. Satyam, AIR 1996 SC 2526, where it has been laid down that Sec.25H is wider than Sec.25F and employee who had put in service of less than 240 days, has also right to come back on seniority basis and is to be informed.

4. In view of the Supreme Court judgment, this controversy is already concluded in favour of the respondents. There is no error in the awards. Both these petitions are, therefore, dismissed. Rule discharged in both the petitions, with no order as to costs.

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(ccs)